

State of Wyoming



Department of Health

Emergency Rules and Regulations for the State Funding and Certification of Drug Courts

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Department of Health**

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State Funding and Certification of Drug Courts**

Rules and Regulations for the
State Funding and Certification of Drug Courts
Department of Health
Mental Health and Substance Abuse Services Division

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CHAPTER 14

Rules and Regulations for State Funding and Certification of Drug Courts

Emergency Rules

Statement of Reasons

The Wyoming Department of Health (WDH) is promulgating Emergency Rules to comply with recommendations made by the Drug Court Steering Committee (the Committee) to implement a drug court funding formula for the FY10 funding cycle. The Steering Committee recommendations state, “WDH shall establish by rule and regulation a funding formula that includes a base amount in addition to an amount per client, and discontinue the current grant program.” Additionally, the Committee recommended “not increasing the number of drug courts until funding is stabilized with a funding formula.” *Drug Court Steering Committee Report to the Joint Judiciary Interim Committee on Drug Court Recommendations, September 5, 2008, Enrolled Act No. 94, Section 1(d)*. Enrolled Act No. 94, Section (d), W.S. 5-10-103(a) and the Wyoming Administrative Procedures Act at 16-3-101, *et seq.*, authorize the Department of Health to promulgate rules.

This Emergency Rule establishes and implements a funding formula for Wyoming drug courts for the FY10 funding cycle. This Emergency Rule must be in place by March 16, 2009.

As required by W.S. 16-3-102(a)(i)(G), this Emergency Rule meets the minimum substantive state statutory requirements.

CHAPTER 14

Rules and Regulations for State Funding and Certification of Drug Courts

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Section 1. Authority. These rules are promulgated by the Department of Health pursuant to W.S. §§ 5-10-101 through W.S. 5-10-107 and the Wyoming Administrative Procedures Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose.

(a) These rules have been adopted for the purpose of providing local drug courts a process for applying for state funding of drug courts, certifying treatment personnel participating in drug courts, establishing a system for collection of data and evaluating drug courts, and establishing requirements for applicant courts;

(b) The Department may issue manuals, bulletins, or both to interpret the provision of these rules and regulations. Such provider manuals and provider bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in provider manuals or provider bulletins shall be subordinate to the provisions of these rules and regulations.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.

Section 3. Severability. If any portion of these rules is found invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions. The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and visa-versa. Throughout these rules gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers in random distribution. Words in each gender shall include individuals of the other gender.

For the purposes of these rules, the following shall apply:

(a) “Case management” is a method of providing services whereby the drug court management team or its designee assesses the needs of the participant and arranges, coordinates, monitors, evaluates, refers, and advocates for a package of multiple services to meet the complex needs of the person.

(b) “Division” shall mean the Mental Health and Substance Abuse Services Division of the Department of Health.

(c) “Drug” or “drugs” shall be construed to include alcohol unless otherwise indicated.

(d) “Drug court management committee” shall mean the local committee established in compliance with the provisions of W.S. 5-9-104; provided however that in the event any team member refuses to participate, the management committee may continue to operate in the absence of such member.

(e) “Drug court panel” shall mean the entity established pursuant to W.S. 5-9-103.

Section 5. Funding Formula. The Division shall develop and implement a funding formula. The Division shall apply the funding formula to each application for state funds prior to making a recommendation to the drug court panel. The drug court panel may increase or decrease final funding determinations based upon need.

Section 6. Funding Application Procedure; Eligibility.

(a) Prior to submitting an application for state funds, the drug court management committee shall have either completed the U.S. Department of Justice Drug Courts Program Office “Drug Court Planning Initiative” or be scheduled to complete the training prior to receiving funds sought under the application. In the event a management team submits an application prior to completing the training, an award shall be contingent upon completion. Neither shall this requirement apply to those applicants whose team members have completed the Drug Court Planning Initiative training for another court.

(b) Prior to applying for state funding, the local drug court management committee shall submit an application for federal funds.

(c) To apply for state funds, the local drug court management team shall submit an application containing the qualifying information provided by W.S. 5-10-106, including an annual budget request and documentation of proposed programming changes in the upcoming fiscal cycle.

(d) An application must be submitted no later than July 1 of the year in which funding is sought or at such other time as the drug court panel may direct.

(e) Applications for state funds should be submitted to the Division. The Division shall promptly review each application. The Division may request the applicant provide additional information as it deems necessary to make recommendations. The Division shall, within thirty (30) days of the deadline for submitting applications, forward all applications to the drug court panel together with its recommendations.

(f) The drug court panel (the panel) shall consider each application and render its decision within thirty (30) days of receiving the applications and recommendations from the Division. In order to approve any application for funds, the panel must find:

(i) The program meets the criteria established by W.S. 5-10-106;

(ii) The program is in compliance with W.S. 5-10-101 through 5-10-107 and these rules and regulations;

(iii) The program can reasonably be expected to meet the objectives of the legislature in establishing a state drug court initiative.

(g) The panel shall determine whether to approve funding requests, the amount of funds to be disbursed to particular applicants, conditions on funding consistent with law and the schedule for disbursement to each successful applicant. All applicants shall be notified in writing of the drug court panel's decision within ten (10) working days. The panel shall also notify the Division of its decision. The Division shall disburse funding in a manner consistent with the decision.

(h) Funding shall be approved for no longer than one (1) year. The funding formula shall be applied to each application received by the Division.

Section 7. Drug Court Panel.

(a) Composition. The drug court panel shall consist of those persons named in W.S. 5-10-103(b). Panel members shall notify the Division in writing of their intent to serve on the panel or provide the name of a designee. The notification shall be made no later than January 31 of each year. A designee must be an employee or officer of the agency of the person making the designation. A designee shall continue to serve unless the person making the designation or his or her successor revokes the designation.

(b) At its initial meeting each year, the panel shall select a chair, vice chair, and secretary. The panel shall meet at the call of the chair. Records, including minutes of all meetings of the panel, shall be maintained by the Division.

Section 8. Local Matching Funds.

(a) Recommendations of the Division for funding shall be based in part, pursuant to W.S. 5-10-102(c), on the amount of funding which the county supplies to its drug court. The Division shall consider both public and private funds contributed as well as in-kind contributions.

(b) Each local drug court program (program) shall require all participants to contribute to the cost of the treatment they receive; provided, however, contributions made by drug court participants may not be used to meet local match requirements.

(c) No application shall be considered unless the total of the local match is equal to or exceeds twenty-five per cent (25%) of the amount of state funding sought from the drug court account.

(d) The application must be accompanied by a narrative explaining in detail the source and nature of any in-kind contribution and the value attributed to it and the manner in which the value was calculated.

(e) The application for state funds should be accompanied by either the copies of applications previously submitted or summaries of those applications to other potential funding sources, the identification of programs or other sources to which the applicant intends to apply, and any efforts the applicant has made to collaborate or integrate its programs with other programs in the community that are receiving state or private funds. Whenever the drug court applies for other funding, a copy of the application or summary of the application should be promptly forwarded to the Division.

(f) Local drug court management committees receiving state funds shall promptly notify the Division of any other funding awards it receives in an amount of five thousand dollars (\$5,000) or more, indicating the amount and source of the award.

Section 9. Maximizing Federal Funds. All applications shall include a detailed narrative explaining the manner in which it has and will continue to maximize the availability of federal funds for its program. The narrative should be accompanied by copies or summaries of applications previously submitted, the identification of programs or other sources to which the applicant intends to apply, and any efforts the applicant has made to collaborate or integrate its programs with other programs in the community that are receiving federal funds. Whenever the drug court applies for other federal funding, a copy or summary of the application should be promptly forwarded to the Division. Local drug court management committees receiving state funds shall promptly notify the Division of any other federal funding awards it receives indicating the amount and source of the award.

Section 10. Certification of Treatment Personnel.

(a) All drug courts shall provide directly or through contractual or referral relationships a range of treatment modalities to meet the varying needs of participants. Treatment plans are to be determined on the basis of individual needs. Therefore, the following treatment modalities and components must be available treatment modalities:

- (i) Education;
- (ii) Drug testing and monitoring;
- (iii) Case management;
- (iv) Detoxification;
- (v) Screening with use of ASAM (American Society of Addiction Medicine) instruments;
- (vi) Assessment using the Addictions Severity Index (ASI);

- (vii) Diagnosis and treatment planning using ASAM instruments;
- (viii) Traditional outpatient treatment;
- (ix) Intensive outpatient treatment;
- (x) Transitional services;
- (xi) Long-term residential care;
- (xii) Prevention and primary healthcare;
- (xiii) Mental health services for co-occurring disorders;
- (xiv) Specialized treatment for women and women with children;
- (xv) Family treatment and education;
- (xvi) Life skills, coping skills, and social skills training;
- (xvii) Corrective thinking therapy and cognitive skills; and
- (xviii) Relapse planning and handling.

(b) A local management committee may contract with one or more licensed entities and/or certified providers for substance abuse or other necessary drug court services. Those entities and individuals may employ or contract with other certified individuals to provide the services provided they shall screen, supervise, and evaluate the performance of such individuals. Such contracts shall:

- (i) Be awarded, in the case of substance abuse treatment service providers, on a competitive basis unless the Division finds there is only one qualified provider in the local program area or willing to provide services to that court;
- (ii) Not be awarded to the lowest bidder but to the bidder that demonstrates the ability to provide effective services in a cost-effective manner;
- (iii) Be for a period of not more than one (1) year and may be extended, one (1) year at a time, for a period of three (3) years without subsequent competitive bidding;
- (iv) Contain the following provisions:

(A) Minimum professional qualifications of all individuals who will perform substance abuse services under the contract and clear standards for evidencing the individual possession of the qualifications;

(B) An agreement to provide specified services;

(C) A requirement that the provider comply with all applicable state, federal and local laws and other legal requirements for the provision of services;

(D) A clear and unambiguous statement of all compensation to be received by the provider, conditions for payment, and method of computing payments;

(E) A requirement that the provider maintain detailed, accurate, and current records of each participant's treatment, drug testing, and other related activities for the purposes of evaluating progress, reports to the court, the local management committee, and the Division and billing;

(F) A requirement that in the event a provider should receive direct payment from a participant, the provider receipt all such payments made by participants as contributions to the cost of treatment and provide records of such to the committee;

(G) A requirement that the provider submit all claims and take all steps necessary to obtain any Medicaid or other insurance or third party payments or reimbursements and credit all such receipts against compensation to which the provider is otherwise entitled under the contract;

(H) And such other provisions as are deemed necessary to assure the provider understands the goals and methods of the drug court and will work cooperatively as a member of the team to achieve those goals, including, but not limited to, a provision assuring the contractor will keep the court and drug court team fully informed of all matters relevant to the treatment and program progress of any participant.

(c) The local drug court management team shall adopt and enforce written policies designed to avoid conflicts of interest and the appearances of such conflicts. Copies of these policies shall be submitted together with grant applications.

(d) Local drug court management committees may contract only with treatment providers that are certified by the Division. Providers of other ancillary or specialized services other than substance abuse treatment need not be certified; provided, however, the management team shall assure itself that all such providers understand their role in the context of drug court concepts. A request for initial certification may be submitted to the Division at any time. In order to be certified, a service provider must:

(i) Submit evidence that he or she is credentialed by the appropriate licensing agency of the state of Wyoming to provide the intended services; all treatment providers, whether licensed by the state or not, must demonstrate they have sufficient training and/or experience to provide such services to the drug court target population;

(ii) Have received at least forty (40) hours of drug court specific training

prior to applying for certification. Treatment providers may be provisionally certified provided they demonstrate their commitment to complete the forty (40) hours of training within six (6) months of certification.

(iii) Agree to completing six (6) hours additional annual continuing drug court specific training in any subsequent year in order to maintain certification;

(iv) Ensure that the training required in paragraphs d (ii) and d (iii) above include drug court courses and seminars provided by the U.S. Department of Justice, the National Association of Drug Court Professionals, the National Drug Court Institute, any state drug court association recognized by the Division, or the Division. In order to receive credit for training sponsored by any other person or entity, the applicant must first receive the written approval of the Division. To request approval of the course or seminar, the applicant must first submit a written request together with a detailed summary of the training and course outline at least thirty (30) days prior to the training.

(v) Submit requests to the Division for certification. The Division shall act promptly on all requests for certification, approving or disapproving them within thirty (30) days of the receipt of all required information.

(vi) Submit a request for re-certification annually. The renewal request must be submitted no later than July 1 of each year and include proof of the completion of continuing education requirements and be signed by the local drug court judge.

Section 11. Continuing Education of Drug Court Management Committee.

(a) All members of the local drug court management committee are required to complete at least six (6) hours of drug court specific training each calendar year. Training which qualifies to meet this requirement may include drug court courses and seminars provided by the US Department of Justice, the National Association of Drug Court Professionals, the National Drug Court Institute, any state drug court association recognized by the Division, or the Division. In order to receive credit for training sponsored by any other person or entity, the applicant must first receive the written approval of the Division. To request approval of the course or seminar, the applicant must first submit a written request together with a detailed summary of the training and course outline at least thirty (30) days prior to the training.

Section 12. Annual Reviews.

(a) The management committee shall arrange for an independent audit of each year-end financial statement by a certified public accountant or other qualified auditor. The audit shall be complete no more than six (6) months after the end of the fiscal year to which it applies and shall be submitted to the Division within thirty (30) days of its completion. The management committee shall maintain a fiscal filing system. The Division shall arrange for fiscal training and periodic reviews of program records to ensure compliance with policies.

(b) During each fiscal year, the Division shall arrange for a random program audit and treatment review of each drug court. The random program audit shall assess the performance of all programs, including case management services, that are provided by or through the drug court, providing recommendations to improve the program, including changes in service provider contracts. The treatment review shall be an examination of the performance of the drug court in providing effective treatment and shall include any recommendations for improving treatment services. A report summarizing findings to include strengths and weaknesses of the program shall be prepared by the Division and submitted to the local management committee for use in its annual self-evaluation.

(c) Each local drug court shall conduct an annual self-evaluation. The self-evaluation shall include a review of the financial audit and report of the Division submitted pursuant to paragraph (a) and (b) above. It shall also include an evaluation of the strengths, weaknesses, successes, failures, challenges, opportunities, and threats to the program. In conducting this evaluation, the committee shall review state and local data relevant to these issues. The committee shall submit to the Division with its next funding application a written copy of this evaluation, demonstrating the extent to which its conclusions are supported by data. The report shall also indicate any programmatic changes that were made as a result of the review.

Section 13. Confidentiality of Records. Drug Court staff, designated by the judge, shall be provided with access to all records of any state or local government agency relevant to the treatment of any program participant. Agency employees shall fully inform the designated drug court staff member(s) of all matters affecting the treatment and program progress of a participant. No contents of records and reports shall be disclosed to any person outside the drug court. The records and reports shall be maintained by the court in a confidential file not available to the public. Drug court participants shall be required to sign such releases as are necessary to carry out this provision and the duties of the drug court.

Section 14. Data Collection and Outcome Evaluation.

(a) Each drug court management committee shall cooperate with requests from the Division for data, using such data collection software and procedures as the Division may deem appropriate.

(b) The Division, with advice from local drug court management committees and the Statistical Analysis Center of the University of Wyoming, shall establish a uniform statewide data collection system. The Division shall ensure that data is collected efficiently, in a uniform manner, and in a format that facilitates research and the evaluation of outcomes.